IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

CIVIL REVISION APPLICATION NO. 288 of 2000
WITH
CIVIL REVISION APPLICATION NO. 216 OF 2001

CIVIL REVISION APPLICATION NO. 288 of 2000

Shri Jose Assuncao Afonso,
aged 87 years, landlord,
resident of Cavelossim,
Salcete-Goa.
(Registered Address) .... Petitioner

Versus

1. Deputy Collector,
   South Goa, Margao-Goa.

2. Collector of North Goa,
   Panaji-Goa.

3. Government of Goa,
   through the Chief Secretary,
   having office at Secretariat,
   Panaji-Goa. .... Respondents

Shri D.Pangam, Advocate for Petitioner.

Shri Guru Shirodkar, Additional Government Advocate for Respondents no. 1to 3.

CIVIL REVISION APPLICATION NO. 216 OF 2001

1. Mrs. Bernadette Mandoli,

2. Dr. Caetano J. Mandoli,

3. Miss Julieta Mandoli,

4. Mr. Aniceto Mandoli (deceased),

5. Miss Marianinha Mandoli,

All major of age,
originally residents of
Agacaim, Ilhas, Goa. ... Petitioners
(Decree-holders)

Versus

1. Deputy Collector,
South Goa, Margao-Goa.

2. Collector of North Goa,
Panaji-Goa.

3. State of Goa,
Through the Chief Secretary,
Panaji-Goa. ... Respondents
(Judgment-debtors)

Shri V.A. Lawande, Advocate for Petitioners.

Shri Guru Shirodkar, Additional Government Advocate for Respondents.

CORAM: **P.V. KAKADE, J**.

DATE: **22nd August, 2006**

ORAL JUDGMENT

Heard the Advocates for both the parties in both the proceedings. While Civil Revision Application No. 288 of 2000 is filed

against the impugned order dated 29/01/2000, passed by the District Judge, Margao in Execution Application No. 7 of 1987, Civil Revision Application No. 216/2001 is preferred by the applicants against the impugned order dated 31/03/2001 in Execution Application No. 14 of 1988.

2. Both the applications arise out of the dispute regarding calculations and the amount of compensation to be disbursed to the present petitioners in the course of land acquisition matters. The references under Section 18 of the Land Acquisition Act were disposed of by the Courts below against which the appeals were preferred, wherein the order came to be modified and therefore, fresh calculations were required to be made. The execution Court after making calculations of the amount payable to the claimants, came to the conclusion that the calculations made by the respondent State Authorities were correct, by virtue of which, the direction was issued to the claimant to refund the amount which was calculated to be overpaid to them.

3. The learned Counsel for both the applicants/claimants submitted that, while accepting the calculations made by the JD/State, the

Courts below did not take into account the calculations which were presented by the claimants, nor the impugned orders show that there was any application of mind of the execution Court, while accepting the State's calculations made in that regard.

4. On perusal of the impugned orders, in both the matters, I am inclined to hold that, there is some force in arguments advanced on behalf of the applicants, in the sense that it is clear that the execution Court in both the matters, appears to have not taken into account the submissions advanced on behalf of the claimants and calculations made by them.

5. It may be noted that, while these matters were pending in this Court, the office of this Court was asked to make necessary accounting and calculations, of which report is received. However, the said report is also challenged on behalf of both the applicants on the ground that, mere accounting cannot solve the basic issue which would require judicial application of mind of the concerned Court.

6. Therefore, in view of the totality of the facts and circumstances, I am inclined to hold that, the proper adjudication of the dispute at hand

can only be made by remanding the matter to the District Court, who will give opportunity to both the sides to put up their respective cases with regard to the modalities and methodology, regarding calculations and objections raised by respective parties in that regard.

7. Hence the impugned order of the execution Court dated 29/01/2000 in Civil Revision Application No. 288 of 2000 and impugned order dated 31/03/2001in Civil Revision Application No. 216 of 2001 are hereby set aside. Both the matters are remanded to the District Court, Margao with direction that, the District Court in its jurisdiction to execute the decrees, shall recalculate the payable amount after hearing both the parties. It is clarified that the matter is being remanded for limited purpose of adjudication of calculations after hearing both the parties and no party shall be allowed to go behind the decree passed in both the matters. With these directions, applications stand disposed of with no order as to costs. The matters are old and therefore, the District Court is directed to adjudicate the relevant issues within a period of 6 months from the date of the receipt of the writ of this Court.

P.V. KAKADE, J.

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